

KENNETH M. FITZGERALD (CA SBN 142505)  
kenneth.fitzgerald@lw.com  
LATHAM & WATKINS LLP  
600 West Broadway, Suite 1800  
San Diego, California 92101  
Telephone: (619) 236-1234  
Facsimile: (619) 696-7419

JAMES L. DAY (CA SBN 197158)  
Jim.Day@lw.com  
TIENLON HO (CA SBN 240997)  
tienlon.ho@lw.com  
LATHAM & WATKINS LLP  
505 Montgomery Street, Suite 2000  
San Francisco, California 94111-6538  
Telephone: (415) 391-0600  
Facsimile: (415) 395-8095

MATTHEW W. WALCH (admitted pro hac vice)  
matthew.walch@lw.com  
LATHAM & WATKINS LLP  
Sears Tower, 233 South Wacker Drive, Suite 5800  
Chicago, Illinois 60606  
Telephone: (312) 876-7603  
Facsimile: (312) 993.9767  
Attorneys For Plaintiff GOCLEAR, LLC

JENNIFER LEE TAYLOR (CA SBN 161368)  
JTaylor@mofo.com  
KIMBERLY L. TAYLOR (CA SBN 240483)  
KTaylor@mofo.com  
MORRISON & FOERSTER LLP  
425 Market Street  
San Francisco, California 94105-2482  
Telephone: (415) 268-7000  
Facsimile: (415) 268-7522  
Attorneys For Defendant TARGET CORPORATION

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

GOCLEAR LLC, a California limited liability  
company,

Plaintiff,

v.

TARGET CORPORATION, a Minnesota  
corporation,

Defendant.

Case No. C 08-02134 (MMC)

**STIPULATION AND ~~PROPOSED~~  
ORDER TO MODIFY DISCOVERY  
SCHEDULE**

STIPULATION TO MODIFY DISCOVERY SCHEDULE  
Case No. C 08-02134 (MMC)

sf-2577905

1 Pursuant to Local Rules 6-2 and 7-12, plaintiff GoClear LLC ("GoClear") and defendant  
2 Target Corporation ("Target"), through their counsel, submit the following stipulation and  
3 [proposed] order modifying the discovery schedule in the above-captioned case.

4 The parties have met and conferred and have agreed to conduct certain discovery in an  
5 initial phase before proceeding to full discovery. The initial phase will include discovery on  
6 priority issues, which are discussed in Target's portion of Section 4 of the Joint Case  
7 Management Conference Statement.

8 The parties note that GoClear has already served on Target a first Request for the  
9 Production of Documents and Things, and that GoClear has requested third-party depositions  
10 from Biome International, which has information relevant to Target's claim to prior rights in the  
11 CLEAR X mark for acne preparations. The parties agree to promptly propound any additional  
12 discovery they believe is relevant to the issue of priority to allow Target to file a motion for  
13 summary judgment on the issue of priority on the schedule set forth below. Discovery on other  
14 topics may be served at any time, but responses will only come due pursuant to the following  
15 schedule:

16 **Deadline to produce Rule 26(a)(1) documents related to priority issues:**

17 September 26, 2008

18 **Target to file motion for summary judgment:** November 14, 2008 with the motion set  
19 for hearing on December 19, 2008

20 **Discovery responses related to non-priority issues:** Parties will serve written discovery  
21 responses and initial documents related to non-priority issues (including documents required by  
22 Rule 26(a)(1) and documents in response to Rule 34 requests) 28 days after the hearing on  
23 Target's motion for summary judgment on the issue of priority.<sup>1</sup> This stipulation will not affect  
24

---

25 <sup>1</sup> To the extent that discovery responses on non-priority issues would otherwise be due  
26 more than 28 days after the hearing date on Target's motion for summary judgment on the issue  
27 of priority, the parties agree that this stipulation does not modify those deadlines. This stipulation  
28 is not intended to shorten the time that either party otherwise has under the Federal Rules of Civil  
Procedure to respond to discovery related to non-priority issues.

1 the parties' right to produce additional responsive documents as they are identified and prepared  
2 for production. This stipulation will not affect the scope of discovery that may be sought by  
3 either party following the initial phase of discovery focused on priority issues.

4 This stipulation does not modify any of the deadlines in the Civil Minutes entered by this  
5 Court on August 29, 2008 and the Pretrial Preparation Order entered by this Court on September  
6 2, 2008.

7 SO STIPULATED:

8 Dated: September 24, 2008

JAMES L. DAY  
LATHAM & WATKINS LLP

9  
10  
11 By: /s/ James L. Day  
James L. Day

12 ATTORNEY FOR PLAINTIFF  
13 GOCLEAR, LLC

14 Dated: September 24, 2008

JENNIFER LEE TAYLOR  
KIMBERLY L. TAYLOR  
MORRISON & FOERSTER LLP


15  
16  
17 By: /s/ Jennifer Lee Taylor  
Jennifer Lee Taylor

18 ATTORNEYS FOR DEFENDANT  
19 TARGET CORPORATION  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDER**

Pursuant to the parties' stipulation, and good cause appearing, the discovery schedule is amended as set forth above. PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: September 25, 2008

  
The Honorable Maxine Chesney  
United States District Judge

**GENERAL ORDER 45 ATTESTATION**

I, Jennifer Lee Taylor, am the ECF User whose ID and password are being used to file this Stipulation and [Proposed] Order Continuing Case Management Conference. In compliance with General Order 45, X.B., I hereby attest that James L. Day, attorney for Plaintiff, has concurred in this filing.

Dated: September 24, 2008

MORRISON & FOERSTER LLP

By: /s/Jennifer Lee Taylor  
Jennifer Lee Taylor